

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WA.No. 1655 of 2007

AGAINST THE JUDGEMENT IN WPC.18619/2007 Dated 18/06/2007

APPELLANT/PETITIONER:

M/S. SPECTRUM SOFTECH SOLUTIONS (P) LTD.
KUNNUMPURATH BUILDING, CMC 19, CHERTHALA,
ALLEPPEY DIST., REPRESENTED BY ITS CHIEF EXECUTIVE
OFFICER, SHRI MNOJ PADMANABHAN.

BY ADV. SRI.JOY THATTIL ITTOOP

RESPONDENTS/RESPONDENTS:

1. THE DISTRICT COLLECTOR, ERNAKULAM.
2. DY. TAHSILDAR (RR), KANAYANNUR TALUK.
3. THE GENERAL MANAGER,
BHARATH SANCHAR NIGAM LTD.,KOLLAM.

R1 & R2 BY SR.GOVERNMENT PLEADER SMT.MEERA
R3 BY STANDING COUNSEL MR.MATHEWS K.PHILIP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1655 of 2007

Dated, this the 9th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

The appellant in this writ appeal questions the correctness or otherwise of the orders passed by the learned Single Judge in W.P.(C) No.18619 of 2007 dated 18th June, 2007.

2. The petitioner is a company registered under the Companies Act, 1956 and is doing business as an I.T. and I.T. enabled service provider. It is depending on the infrastructural facilities provided by the third respondent-BSNL for doing distance transmission lines. Notices were issued to the petitioner by the third respondent claiming certain amounts as arrears, since the tariff quoted in the earlier bills happened to be for using 2 wire circuit, whereas the petitioner was using 4 wire circuit and the amount being differential rate between 4 wire circuits and 2 wire circuits. These demands had been questioned by the petitioner before this Court earlier in W.A. No. 1214 of 2005. This Court by its order dated 15.6.2005 had disposed of the appeal and in that had observed:-

“When the matter came up for admission learned counsel for the respondent submitted that the dispute between the parties can effectively be determined by the Tribunal under Section 14 of the Telecom Regulatory Authority of India Act, 1997. It is for the parties to raise their grievances before the Tribunal. The Tribunal would independently decide the dispute between the parties untrammelled by the observations of the learned Single Judge in the judgment.”

3. The order passed by the Division Bench of this Court has become final, in the sense, none of the parties to the writ appeal has carried the matter before any superior forum either for modification or for annulment of the said order.

4. The third respondent has now once again initiated proceedings against the petitioner for recovery of the arrears of the amount payable by the petitioner by resorting to revenue recovery proceedings. Those proceedings are the subject matter of the writ petition.

5. The learned Single Judge merely following what was said by the Division Bench of this Court in W.A.No.1214 of 2005, has disposed of the writ petition relegating the petitioner to approach the Tribunal. Aggrieved by that order the petitioner is before us in this writ appeal.

6. There is dispute between the parties regarding the amount payable by the petitioner to the third respondent for the services provided by them. That dispute requires to be redressed by filing an appeal/petition as provided under Section 14 of the Telecom Regulatory Authority of India Act, 1997. Bypassing that remedy, petitioner cannot file any Writ Petition. Correctly understanding the purport of the orders passed by the Division Bench of this Court, the learned Single Judge, in our opinion, has rightly rejected the Writ Petition. Therefore, we are of the opinion that the order passed by the learned Single Judge does not suffer from any error whatsoever. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns/DK

